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DAN SMOOT

ABE FORTAS

Despite strong indications that Abe Fortas violated federal laws, the Nixon administration and most liberals in Congress want the scandal forgotten, now that Fortas has resigned from the Supreme Court, in order to spare the Court further embarrassment.

The case of Justice William O. Douglas is even more reprehensible than that of Fortas. Douglas *has violated* at least one federal law, for which he could be impeached and then prosecuted. Moreover, he has significant connections with the new-left, pro-Peking, pro-Castro militants who are trying to incite guerrilla warfare — to overthrow the American government by force and violence, and to destroy everything decent in our society.

The Douglas scandal is of more immediate importance than the Fortas scandal, because Douglas is still on the Supreme Court; but the Douglas and Fortas cases are somewhat intertwined, like worms in a can; and a review of the Fortas case is a helpful preface to a report on Douglas.

For years, Abe Fortas has been a notorious White House insider, political fixer, and wire-puller in the nation's capital. Twenty years ago, a Senate investigating committee listed Fortas as one of an elite group of Washington lawyers who were collecting "fat legal fees" as "influence men" with government agencies where they had special contacts — generally, because they had previously worked in those agencies. Fortas has been involved with individuals and organizations closely connected with the communist conspiracy. Two of his friends, for example, were Alger Hiss and Harry Dexter White — both communist spies in important government jobs.[1]

All of this (plus a great deal more) was known about Abe Fortas in 1965 when his old crony and confidante, Lyndon Johnson, nominated him Associate Justice of the U.S. Supreme Court. Yet, only three Senators opposed the nomination: John Williams of Delaware, Carl Curtis of Nebraska, Strom Thurmond of South Carolina — all Republicans.

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Senator Williams said Fortas was not qualified to be on the Supreme Court. Senator Curtis said Fortas's efforts to hide the Walter Jenkins affair had revealed: (1) that Fortas was too permissive about criminal behavior because he regarded lawbreakers tenderly as unfortunate people rather than as offenders against society; and (2) that Fortas was more interested in covering up a scandal for a powerful friend and client — President Johnson — than in protecting the security interests of the United States. Senator Thurmond cited evidence that Fortas is a relativist who accepts no absolute standards and who could not, therefore, be expected to have "respect for the rule of law."[2]

Ignoring these objections, the Senate approved the nomination of Abe Fortas on August 11, 1965 — by *voice vote.*

Many Senators who supported Fortas in 1965, denounced Johnson's attempt to make him Chief Justice in 1968. Why?

In 1965, Congress was offering little opposition to any of President Johnson's proposals. But by mid-1968, Johnson had lost his popularity. Opposing him then could be good politics, whereas it would have been bad politics in 1965. With only a few more months to serve as President, Johnson no longer had unlimited power to bribe and blackmail members of Congress with tax money — promising more federal spending in the states and districts of those who supported him, threatening reductions that would politically damage those who opposed him.

Moreover, additional facts about Abe Fortas had come to light between 1965 and mid-1968.

When Johnson nominated Fortas to the Supreme Court in 1965, Fortas was vice president, general counsel, and board member of Greatamerica Corporation; and he was a board member of Braniff International Airways, a subsidiary of Greatamerica.[3]

Greatamerica was incorporated in Nevada in 1962, by Helen Irving, Katherine Waldman, and Clifford A. Jones. Irving and Waldman were directors of Las Vegas gambling concerns. Jones was part owner of a gambling casino. His gambling license was revoked in 1955, on the grounds that underworld characters had an interest in his casino. That revocation was later overturned by the Nevada Supreme Court; but Jones was indicted in 1966, for perjury during a grand jury investigation of Lyndon Johnson's old friend and protege, Bobby Baker. Fortas was Baker's lawyer until Johnson, a mutual friend, became President in 1963.[3]

Troy V. Post — a wealthy Dallasite, intimate of Lyndon Johnson, and heavy contributor to Johnson's political campaigns — was president and board chairman of Greatamerica during the three years when Fortas was a high official of the firm. Post's various business interests have profited from connections in Washington.[3]

When Fortas was seated on the Supreme Court, he resigned his offices in Greatamerica and Braniff. One of Fortas's law partners, Dennis Lyons, took Fortas's former positions with Greatamerica; another Fortas law partner, Paul Porter, succeeded Fortas as board member of Braniff.[3]

In 1968, Paul Porter solicited, from officers of Greatamerica, $30,000 to finance some lectures by Fortas at American University. Fortas got $15,000; the University got $15,000. The main contributor to this fund for Justice Fortas was Troy V. Post — whose son, *at that time*, was appealing a conviction for conspiracy and fraud. Justice Fortas had friends on the District of Columbia appeals court involved.[3]

Public disclosure that Fortas had accepted this $15,000 fee (raised by a Fortas law partner from cronies through whom Fortas had had connections with Las Vegas gambling interests), coupled with a congressional review of the unspeakable pornography which Fortas had helped "legalize" with his Supreme Court decisions, was the determining factor in keeping Fortas from becoming Chief Justice in 1968.[3]

But there was more to the story than was brought out during Senate debates over the promotion of Fortas to Chief Justice.

While Paul Porter (Braniff board member) was soliciting, from the owners of Braniff, money for Justice Fortas (a former Braniff board member), Braniff and other airlines had applications

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before the Civil Aeronautics Board for permits to extend their services over certain Pacific routes. After extensive hearings, a CAB examiner decided that Braniff should get none of the Pacific routes. President Johnson and an old friend whom he had appointed CAB chairman, overruled the CAB examiner and granted Braniff a permit to open a new route to Hawaii via Mexico City and Acapulco. Troy V. Post (friend and benefactor of Lyndon Johnson and Abe Fortas, and principal shareholder of the holding company that owned Braniff until the holding company and Braniff were absorbed by Ling-Temco-Vought) would profit greatly by the new route which Johnson awarded Braniff. Post is a partner in a 19-million-dollar hotel in Acapulco and is constructing a six-mile beach-front golf course in that resort city.[3]

Shortly after inauguration, President Nixon cancelled the permit to Braniff, as being "economically unjustified."

Connections between Abe Fortas and Louis E. Wolfson (now in prison) began at least a year before Fortas was seated on the Supreme Court.[4]

Sometime in 1964, the Securities and Exchange Commission (SEC) began an investigation of Wolfson and several of his associates because of alleged illegal stock manipulations involving companies that Wolfson owned or controlled. The two Wolfson companies with which the SEC was most seriously concerned were Continental Enterprises, Inc., and Merritt-Chapman & Scott Corporation. Elkin Gerbert was involved with Wolfson in the Continental Enterprises case. Elkin Gerbert, Alexander Rittmaster, Joseph Kosow, and Marshall Staub were involved with Wolfson in the Merritt-Chapman & Scott case.[4]

Wolfson and Gerbert retained Fortas's law firm to represent them. Fortas says this was in "the spring and summer of 1965." *Life* magazine says it was as early as December, 1964. Fortas admits that, prior to being seated on the Supreme Court, he personally participated in Wolfson's business and legal affairs.

It is obvious why Wolfson and Gerbert retained the Fortas firm to handle their problems with the SEC. Fortas was the most powerful influence-peddler in Washington. In addition to being a close friend and indispensable adviser of Lyndon Johnson, Fortas had many connections in key federal agencies — among them, the SEC, where Fortas himself had worked for four years as assistant director and consultant. Fortas's old friend, Justice William O. Douglas, was also a former SEC official who still had connections in that agency.[4]

A few weeks after hiring Fortas as his lawyer, Wolfson also offered him a job with the tax-exempt Wolfson Family Foundation (which is supposed to do something or other about civil rights and race relations). Shortly thereafter, Johnson nominated Fortas to the Supreme Court.[4]

In December, 1965 — five months after being nominated Associate Justice — Fortas made a contractual agreement "to perform services" for the Wolfson Foundation. Though not specifying what Justice Fortas was supposed to do for the Foundation, the contract provided that the Foundation would pay Fortas, or his wife, a $20,000-a-year fee for life.[4]

On January 3, 1966, the Wolfson Foundation sent Justice Fortas a $20,000 check, for services which he had not yet performed. The check was signed by Elkin Gerbert, treasurer of the Wolfson Foundation.[4]

When Justice Fortas accepted that fee, Wolfson and Gerbert were under investigation by the SEC for alleged criminal acts; and they were being represented by Fortas's old law firm (in which Fortas's wife had succeeded him as a principal partner). Wolfson and Gerbert were already dropping Fortas's name "in strategic places . . . in their effort to stay out of prison."[4]

In February, 1966 (according to *Life*), Alexander Rittmaster (involved with Wolfson in the Merritt-Chapman & Scott case) asked Wolfson what he was doing about the SEC investigation, which had been going on for more than a year. Wolfson said the matter would never get out of Washington, because it would be taken care of "at the top." Wolfson told Rittmaster that Justice Fortas was joining the Wolfson Family Foundation.[4]

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On March 14, 1966, the SEC sent the Justice Department a recommendation that Louis Wolfson and Elkin Gerbert be prosecuted for their activities in the Continental Enterprises case. The SEC alleged that they had realized a $3.5 million profit from illegal sales of Continental Enterprises stock, after which remaining stockholders found that their shares had dropped from $8 to $1.50.(4)

On June 10, 1966, the SEC formally recommended that the Justice Department prosecute Louis Wolfson, Elkin Gerbert, Alexander Rittmaster, Joseph Kosow, and Marshall Staub for their activities in the Merritt-Chapman & Scott case. The SEC alleged that Wolfson and his associates had bought secretly, in violation of federal law, $10 million in Merritt-Chapman stock, then sold it back to the company for a profit to themselves of $4 million.(4)

On June 14, 1966, Justice Fortas flew to Jacksonville, Florida. Elkin Gerbert met him at the airport and drove him to Wolfson's horse farm near Ocala. On June 15, 1966, while Fortas was a house guest of Wolfson, an SEC attorney in New York asked a state judge to hold up settlement of several stockholders' suits against Wolfson and his associates in the Merritt-Chapman case, pending results of the SEC study. Thus, the SEC investigation of Wolfson, which had been going on for more than 18 months, was first brought to public attention. The next day — June 16 — Abe Fortas returned to Washington.(4)

After the news broke, Alexander Rittmaster (who, for several months, had been anxious about his involvement with Wolfson, Gerbert, and others in the Merritt-Chapman case) was apparently on the edge of panic.(4)

Eager to calm Rittmaster and keep him from cooperating with the government, Gerbert and Wolfson reassured him. Rittmaster later told *Life* that Gerbert had said there was no need to worry because Justice Fortas had been at the Wolfson horse farm to discuss the SEC matter and that it was to be taken care of. Wolfson added that Justice Fortas was furious because the SEC had broken a promise to give the Wolfson group another hearing before recommending criminal prosecution.(4)

A federal grand jury was given evidence in the Wolfson cases in August, 1966. Wolfson and one group of associates were indicted on September 19. Wolfson and other associates were indicted October 18.

Fortas says he resigned from the Wolfson Foundation in June, 1966 — "subject to completing the projects for the year." In December, 1966, he refunded the $20,000 fee paid him in January of that year — having concluded, he says, that he would consider his services to the Foundation during 1966 a contribution.(5)

In short, Supreme Court Justice Fortas deliberately served the Wolfson Foundation almost six months after it became public knowledge that Wolfson was under investigation for criminal violations of law — and served it almost three months after Wolfson had been indicted.

NEXT WEEK: more details on the Fortas scandal.

FOOTNOTES

(1) Extension of Remarks of Representatve John R. Rarick, *Congressional Record* (daily), July 22, 1968, pp. E6759-6762, E6766-6771

(2) *Congressional Record* (daily), Aug. 11, 1965, pp. 19310 ff.

(3) *The Dallas Times Herald*, May 15, 1969, pp. 1, 8; *The Dallas Morning News*, May 16, 1969, pp. A1, 4-6; *Human Events*, May 24, 1969, p. 3

(4) Speech by Senator John Williams, *Congressional Record* (daily), May 5, 1969, pp. S4509-4516

(5) Fortas's May 4, 1969, press release and his May 14 resignation letter, *Congressional Quarterly Weekly Report*, May 9, 1969, p. 673; May 16, 1969, p. 706

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